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*W. Kingsbury*

CITY CLERK OF NEWTON,  
P. O. West Newton, Mass.

# CITY OF NEWTON.

MASSACHUSETTS.

No. 18735.—No.19492.

## REPORT OF JOINT SELECT COMMITTEE ON REVISION OF THE CITY CHARTER.



DECEMBER 9TH, 1895.

ALDERMEN.

HENRY D. DEGEN, Chairman.      LOUIS E. G. GREEN.

COUNCILMEN.

MITCHELL WING.      FREEDOM HUTCHINSON.  
FRANCIS W. SPRAGUE, 2d.

CITY SOLICITOR.

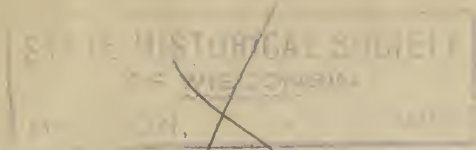
W. S. SLOCUM, Esq. Advisory.

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## IN THE BOARD OF MAYOR AND ALDERMEN.

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DECEMBER 9th, 1895.

The Joint Select Committee appointed by His Honor, the Mayor, on the revision of the City Charter, beg leave to submit herewith their report.

Some months have been consumed by the committee in what they believe has been a careful study of the present Charter, that they might note its defects, and if possible, suggest "a more excellent way" to manage the affairs of a large and growing municipality like the City of Newton.

No hasty conclusions have been formed, and the practical experience of the members of both Boards, has been of value in enabling us to arrive at the result.

It has not been deemed advisable to abolish the common council and substitute therefor a single Board. This matter was carefully weighed—the reasons for and against fully considered, and the conclusion arrived at.

What may be considered the most radical suggestion of the committee, is the creation of departments for the execution and administrative details of the highways, sewers, water works, public buildings, parks, etc., making the heads responsible to the mayor, and to him alone, for the faithful performance of their several duties.

This contemplates making the city council a legislative, and not an executive body; a provision which would seem to commend itself to any one who has had to do with city affairs.

The term of service for both mayor and members of the two boards has been lengthened to two years, and provision is made that one-half of each board shall be elected annually, thus securing a continuous body in each branch.

The president of the board of aldermen is made the presiding officer of that body, thus relieving the mayor of much routine work, and leaving him free to pass judicially on all orders that may come before him, and to execute or veto them as he may deem wise. These, with some minor items, constitute the changes which your committee have made in the present charter, and we trust will commend themselves to your judgment. A copy of the proposed charter is submitted herewith.

For the committee,

H. D. DEGEN, Chairman.

AN ACT TO REVISE THE CHARTER OF THE CITY OF  
NEWTON.

*Be it enacted by the Senate and House of Representatives in general court assembled, and by the authority of the same, as follows:—*

SECTION 1. The inhabitants of the City of Newton, for all purposes for which towns and cities are by law incorporated in this Commonwealth, shall continue to be a body politic and corporate under the name of the "City of Newton," and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations provided for herein, or otherwise appertaining to said city.

The territory of said city shall be divided into seven wards, containing in each ward, as nearly as may be consistent with well defined limits to each ward, an equal number of voters.

SECT. 2. The administration of the fiscal, prudential, and municipal affairs of said city, with the government thereof, shall be vested in a mayor and a city council, which shall consist of a board of aldermen of seven members, and a common council of fourteen members.

SECT. 3. Municipal elections shall be held by ballot in the several wards upon the first Tuesday of December in every year.

The mayor and city council shall respectively hold office as follows: The mayor for the term of two years and until his successor is chosen and qualified.

The members of the board of aldermen for the term of two years, except for the first term herein provided for, and until a majority of the succeeding board is qualified.

The members of the common council for the term of two years, except for the first term herein provided for, and until a majority of the succeeding board is qualified.

The municipal year and term of office not herein otherwise fixed shall begin the first Monday of January following the election.

At the next annual election there shall be elected from the inhabitants of the city the following officers by the voters at large:

A mayor for the term of two years.

One alderman from each ward as follows: from wards one, three, five and seven for the term of one year; from wards two, four and six for the term of two years.

One councilman from each ward for the term of one year, who shall be so designated in his nomination and at said election.

One councilman from each ward for the term of two years, who shall be so designated in his nomination and at said election.

At each annual election thereafter there shall be elected of said officers, successors for those whose terms expire upon the next first monday of January.

SECT. 4. The mayor and members of the city council shall be sworn to the faithful discharge of their duties. The oath of office may be administered to the mayor by the city clerk or by any justice of the peace.

Each branch of the city council shall be the judge of the election of its own members, and a majority of each branch shall constitute a quorum for the transaction of business.

No member of either branch shall receive any compensation for his services, nor be eligible to any salaried office of the city.

The aldermen and common councilmen shall, on the first Monday of January in each year, at three o'clock in the afternoon, meet in convention and newly elected members



may be sworn by the mayor if present, otherwise by any justice of the peace. A record of the oath administered shall be made in each branch. The oath may be administered afterwards to any member of either branch, by the city clerk, or by the presiding officer of either branch when in session.

After the oath has been administered, the two branches shall separate.

The aldermen shall organize by choosing a president, who shall be the presiding officer of the board of aldermen, and of the city council when in convention.

The city clerk shall be the clerk of the board of aldermen.

He shall be sworn to the faithful discharge of his duties.

The common council shall organize by choosing a president and clerk, who shall hold their offices respectively during the pleasure of the common council. The clerk shall be sworn to the faithful discharge of his duties.

The sessions of either or of both branches of the city council shall be public, except when action is taken upon appointments or removals.

SECT. 5. The city council, shall annually, in January, elect by ballot in convention a city treasurer, who shall be collector of taxes, an auditor, a city clerk, one assessor for the term of three years, and from each ward an assistant assessor and an overseer of the poor, and may at any time remove any of said officers, except an assessor, by concurrent vote. The terms of office of said officers shall begin upon the first Monday of February following, and shall continue until their respective successors are chosen and qualified.

The mayor and aldermen shall appoint constables, a city marshal with the powers and duties of a constable, and all other officers required by this act and by the laws of the Commonwealth or by the ordinances of the city, whose selection is not hereinbefore provided for, to hold office until they resign or are removed by the mayor with the consent of the

aldermen; but no member of the city council shall continue in an appointed office after the term for which he was elected.

Vacancies shall be filled in the manner of the original election or appointment, unless herein otherwise provided.

In case of a vacancy in the office of mayor, or of his inability to act, the president of the board of aldermen shall act as mayor until the inability ceases or the vacancy is filled.

The removal of a person holding office from one ward to another shall not create a vacancy in such office.

Every person who is elected or appointed to an office shall receive a certificate of such election or appointment from the city clerk.

Every officer of the city, except the mayor, shall at the request of either branch of the city council, appear before such branch and give such information as it may require, and answer such questions as may be asked, in relation to any matter, act, or thing connected with his office or the discharge of the duties thereof.

#### POWERS AND DUTIES OF CITY COUNCIL.

SECT. 6. The city council shall, in November of each year, appropriate the amount necessary to meet the expenditures of the following year, and such appropriations shall not be increased or exceeded except by a vote of two-thirds of all the members of each branch, voting by yeas and nays.

No money shall be expended, and no liability of the city shall be incurred by any member of the city council, or any board or officer of the city elected by the city council, or appointed by the mayor and aldermen, except in pursuance of an order of the city council.

The city council shall have power:—

To make a new division of wards in each year of the state or national census;

To control and have the custody of all city property; }



To require a bond with sufficient sureties of any officer elected by the city council or appointed by the mayor and aldermen;

To establish by ordinance such departments and offices not otherwise herein provided for as may be necessary for any municipal purposes;

To establish a fire department, with such officers and men, apparatus and regulations for the government thereof as said city council may by ordinance prescribe;

To make ordinances, and affix penalties thereto, as provided herein, and by general law, without the sanction of any court or justice thereof;

To act upon all matters in which authority is now given to said City of Newton under any acts to supply said city and the town of Newton with water;

To lay out, alter, discontinue, locate anew, fix the grade of, or order specific repairs in, any highway, street or town way, and to estimate and assess the damages any person may sustain thereby, and the powers of the city council shall be exclusive therein; but action upon all said matters shall first be taken by the board of aldermen, and persons sustaining damage in their property shall have the remedies which are provided in the case of taking land for ways in said City of Newton, but there shall be no appeal from a decision not to lay out a way;

To act upon all matters in which authority is given to said city council and the board of aldermen and the mayor and aldermen in acts relating to "Cheese Cake brook," to laying and maintaining drains and sewers in said city and in the city of Boston and the town of Watertown, to establishing grades for drainage and sewerage in said City of Newton, and in general laws relating to streets, sidewalks, drains and sewers, and the taking of lands from which may be taken earth and gravel, but action upon all said matters shall first be taken by the board of aldermen;

And generally to exercise all the powers of towns, under general laws.

SECT. 7. Provision may be made from time to time by the city council by ordinance ratified by the legal voters at an annual municipal election as follows:

Fixing the number of wards, but only in a year preceding that of the state or national census;

Fixing the number of members of the common council, provided that wards shall be equally represented;

Fixing the number of aldermen, provided that wards shall be equally represented.

#### POWERS AND DUTIES OF MAYOR AND ALDERMEN.

SECT. 8. The mayor and aldermen shall issue notice for meetings of citizens for municipal purposes.

The mayor and aldermen shall have power:

To act in all matters in which authority is given to the city and said board relating to the "Kenrick Fund;"

And shall have all the powers of selectmen and of boards of aldermen and of a mayor and aldermen under general laws, excepting as is otherwise provided in section seven.

#### POWERS AND DUTIES OF MAYOR.

SECT. 9. The mayor shall be the chief executive officer of the city. He shall see that the laws and the ordinances, orders and regulations of the city are duly executed and enforced, and shall exercise a general supervision over the official acts and conduct of all subordinate officers.

He may suspend any officer, and may suspend any work or payment, whether under a contract or otherwise, for a period not exceeding ten days; but in such case he shall report his action, with his reasons therefor to the city council, which shall take immediate action thereon.

He may except from his approval of any ordinance, or-

der, resolution or vote, in which he has the power of veto by general law, any portion involving a distinct item of expenditure; in such case, instead of returning the original, he shall transmit a copy of such portion not approved.

He shall be ex-officio a member and chairman of the school committee, and of the overseers of the poor. In the school committee he shall have only a casting vote.

He may call special meetings of the city council, or of either branch thereof, by causing notices to be left at the usual place of residence of each member of the city council or of the branch to be convened.

His salary shall not be changed during his term of office.

SECT. 10. There shall be the following administrative officers who shall respectively have and exercise the powers and duties of like public officers under the laws of the Commonwealth; also those herein prescribed and those conferred by the ordinances of said city upon like officers and boards, subject to such changes and alterations in said ordinances not inconsistent with this act, as may hereafter from time to time be made; also all other powers and duties not inconsistent with the nature of their respective offices as the city council may prescribe; also in their respective departments the power and duty of executing the orders and contracts of the city council so far as appropriations shall be made therefor, but they shall have no power to expend money or create any liability beyond specific appropriations therefor by the city council. Their compensation shall be fixed by the city council.

I. A superintendent of streets, who may also be a superintendent of parks, with the authority of highway surveyors, whose powers and duties shall be the construction, alteration, repair, maintenance, care and lighting of streets, ways, sidewalks and bridges.

II. A superintendent of parks, whose duties and powers

shall be the construction, alteration, repair, maintenance and care of public parks, commons, playgrounds and burial grounds.

III. A superintendent of drains and sewers who may be the city engineer, whose powers and duties shall be the construction, alteration, repair, maintenance and care of public drains and sewers.

IV. A fire commissioner, who shall be the chief engineer of the fire department, whose powers and duties shall be the extinguishment of fires and the protection of life and property in case of fire; the purchase, so far as authorized by the city council of all apparatus used therefor and keeping the same in repair, including the fire alarm telegraph and telephone system; the command, direction, control and discipline of the fire department of the city, and the appointment of the members thereof subject to the approval of the mayor and aldermen, and the direction of the work of the members of the fire department in case of fire with authority to prevent persons not authorized by him from coming within the lines that he may establish in the neighborhood of the building or buildings in which a fire may occur.

V. A police commissioner who may be the city marshal, whose powers and duties shall be the command, control, direction and discipline of the police force and all property connected therewith, and the appointment of the members thereof subject to the approval of the mayor and aldermen.

VI. A water commissioner who may also be water registrar, whose powers and duties shall be the construction, alteration, repair, maintenance and care of the water works and all structures, machinery, pipes and property owned or used by the city in connection therewith and with the supply and distribution of water.

VII. A superintendent of public buildings, who may also be inspector of buildings, whose powers and duties shall be the construction, alteration, repair, maintenance and care

of public buildings owned by the city, excepting existing powers of the school committee.

The foregoing officers shall be deemed public officers (and not agents of the city) for whose acts the city shall not be liable, excepting so far as liability now exists for the acts of like public officers.

#### SCHOOL COMMITTEE.

SECT. 11. The school committee shall continue as at present constituted, and shall consist of the mayor, and president of the common council, ex-officio, and two members from each ward elected for the term of three years. They may elect from their own number a chairman, who shall preside in the absence of the mayor. They shall serve without compensation. No member shall be the superintendent of schools. They shall forthwith file in the office of the city clerk notice of any vacancy in their board, and may fill such vacancy until the end of the municipal year in which the next municipal election is held. At such election the vacancy shall be filled for the unexpired term.

No money shall be expended by the school committee except by a two-thirds vote of the members present and voting.

SECT. 12. All acts and parts of acts inconsistent herewith are repealed; provided, that this repeal shall not revive any act heretofore repealed, nor affect any right accruing or accrued or any offence committed, or penalty or forfeiture incurred at the time when this act takes effect, or any suit or prosecution or other proceeding then pending, nor abridge the term of any office then filled, nor effect any ordinance then in force and inconsistent with this act.

SECT. 13. This act shall take effect for the election of municipal officers at the annual municipal election on the first Tuesday of December in the year eighteen hundred and ninety-six, and for all other purposes at the beginning of the





municipal year in the following January; provided, that it shall be accepted by a majority of the legal voters of said city of Newton, voting thereon by ballot, at the annual state election in the year eighteen hundred and ninety-six, notice thereof having been duly given.

The secretary of the Commonwealth shall, prior to said election, cause to be placed on the official ballot for the City of Newton the following words: "Shall the act of the general court of the year eighteen hundred and ninety-six revising the Charter of the City of Newton be accepted? YES

NO